

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

CURTIS DRAYTON,	)	
	)	
Petitioner,	)	
	)	CIVIL ACTION NO.
v.	)	2:06cv65-MHT
	)	(WO)
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

ORDER

It is ORDERED that petitioner Curtis Drayton's objection (Doc. No. 2) is overruled.

It is further ORDERED that this cause is referred back to the United States Magistrate Judge for further appropriate proceedings.

Petitioner Curtis Drayton objects to the court's order in a criminal action United States v. Drayton, no. 2:94cr62-MHT (Doc. No. 1876), treating his Rule 35(a) & Rule 36 motion to correct sentence (Doc. No. 1874) as a § 2255 motion and having it filed in a separate, new civil action, Drayton v. United States (Drayton II), no.

2:06cv65-MHT. Drayton's current motion is essentially the same motion he filed earlier in his criminal case on September 8, 2004 (Doc. No. 1797) which this court similarly construed as a § 2255 motion in a separate, new civil action, Drayton v. United States (Drayton I), 2:04cv846-MHT. In Drayton I, Drayton similarly complained about his motion being treated as a § 2255 motion. He appealed to the Eleventh Circuit Court of Appeals and, in Drayton I (Doc. No. 16), the appellate court ruled that this court correctly construed his motion as a § 2255 motion.

DONE, this the 8th day of March, 2006.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE